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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,785	01/30/2001	James F. Ziech	60680-491	1549

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EXAMINER

TO, TOAN C

ART UNIT

PAPER NUMBER

3616

DATE MAILED: 06/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/772,785

Applicant(s)

ZIECH ET AL.

Examiner

Toan C To

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 20-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-8, 11, 13-15, 17, 18 and 22 is/are rejected.
- 7) ☒ Claim(s) 4-5, 9-10, 12, 16, 20-21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04-02-2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 11 October 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Priority

1. Applicant's claim for domestic priority under 35 U.S.C. 119(e) to U.S. Provisional Patent Application Series No. 60/258,823 filed December 28, 2000 is acknowledged.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 22 recites the limitation "said second end of said strut rod" in lines 1-2.

There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 13-15, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Berckhan (U.S. 3,243,007).

As to claims 1, and 13, Berckhan discloses a sub-frame assembly with the following: a first and second cross members (23, 24) being integral with a first and second side members (29, 30) so as to form a unitary member; wherein the first and second side members and the first and second cross members configured to receive first and second lower suspension control arms (60), and first and second upper suspension control arms (59).

As to claims 2, and 14, Berckhan discloses a sub-frame assembly with the following: wherein the first and second cross members (23, 24) are configured to receive the first and second lower suspension arms (60).

As to claims 3, and 15, Berckhan discloses a sub-frame assembly with the following: wherein the first and second side members (29, 30) configured to receive first and the first and second upper suspension control arms (59).

As to claim 17, Berckhan discloses a sub-frame assembly with the following: a strut rod (61) having a first end couple to the subframe and second coupled to a vehicle frame rails (11).

As to claim 18, Berckhan discloses a sub-frame assembly with the following: a steering linkage (70) coupled to the subframe.

6. Claims 6-8, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Berckhan (U.S. 3,243,007).

As to claims 6, and 11 Berckhan discloses a sub-frame assembly with the following: a first and second cross members (23, 24) being integral with a first and second side members (29, 30); wherein, the first and second cross members (23, 24)

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and the first and second side members (29, 30) are configured to receive first and second lower suspension control arms (60), first and second upper suspension control arms (59) and idler arm (69) of a steering linkage (70).

As to claim 7, Berckhan discloses a sub-frame assembly with the following: wherein the first and second cross members (23, 24) are configured to receive the first and second lower suspension arms (60).

As to claim 8, Berckhan discloses a sub-frame assembly with the following: wherein the first and second side members (29, 30) configured to receive first and the first and second upper suspension control arms (59).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berckhan in view of Keeler et al (U.S. 6,527,286).

Berckhan discloses every element of the invention as discussed above except the following: wherein, the vehicle frame rail is C-shaped longitudinal frame rail.

Keeler et al teaches the invention wherein, the vehicle frame rail (12) is C-shaped longitudinal frame rail. It would have been obvious design choice to one having ordinary skill in the art at the time the invention was made to substitute Berckhan's

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vehicle frame rail by a C-shape frame rail as taught by Keeler et al in order to facilitate mounting arrangement of the subframe to the frame rail.

Response to Arguments

9. Applicant's arguments filed April 02, 2003 have been fully considered but they are not persuasive.

In response to applicant argument that Berckhan does not disclose "first and second cross members integral with said first and second side members so as to form a unitary member", the examiner respectfully disagrees because the following reasons:

(1) In re Hotte, (CCPA) 177 USPQ 236, states that "integral is sufficient broad to embrace constructions united by such means as fastening and welding", in this case, Berckhan (column 2, lines 25-65) discloses first sides of struts 25-28 are welded to the first and second side members 29, 30 while the other sides of struts 25-28 are welded to the first and second cross members 23-24, in other word, after welding process, the first and second sides 29-30, the first and second cross members 23-24, and the struts 25-28 are formed as one piece or a unitary.

Allowable Subject Matter

10. Claims 4-5, 9-10, 12, 16 and 20-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan To whose telephone number is (703) 306-5951. The examiner can normally be reached on Monday-Friday from 8:00 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson, can be reached on (703) 308-2089. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-2571. Any inquiry of a general nature or relating to the status of this application or this application or proceeding should be directed to the receptionist whose telephone number is (703)305-1113.

To, T

June 15, 2003


PAUL N. DICKSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600
6/16/03